

FILED

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

SEP - 6 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

DURANT METAL SHREDDING, LLC, an
Oklahoma Limited Liability Company,

Plaintiff,

vs.

MARKEL AMERICAN INSURANCE
COMPANY, a Virginia Corporation,
and
MARKEL INSURANCE COMPANY,
an Illinois Corporation,

Defendants.

Case No.: **CIV 12 - 377 - SPS**

COMPLAINT

COMES NOW, the Plaintiff, Durant Metal Shredding, LLC, by and through its attorneys, Wright, Stout & Wilburn, PLLC and Steidley & Neal, PLLC, and for its claims and causes of action against the Defendants, states and alleges:

1. Plaintiff is a limited liability company organized and existing under the law of the State of Oklahoma and with its principle place of business in Durant, Oklahoma.
2. Defendant, Markel American Insurance Company, is an insurance company organized and existing under the laws of the state of Virginia and doing business in the state of Oklahoma. Defendant, Markel Insurance Company, is an insurance company organized and existing under the law of the state of Illinois and doing business in the state of Oklahoma.
3. The matter in controversy exceeds, exclusive of interests and costs, \$75,000.00, the amount specified by 28 U.S.C. § 1332.

consent form provided

4. Pursuant to 28 U.S.C. § 1391(b)(2), jurisdiction and venue are proper in this Court as diversity of citizenship exists between the parties, the events giving rise to this claim occurred within this district, and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.
5. Plaintiff does business at 701 South McLean Road, Durant, Oklahoma.
6. At all times material herein, the Defendants were acting by and through their agents, servants and employees who were within the course and scope of their agency, authority or employment.
7. The contract of insurance upon which this cause of action arises was created in the State of Oklahoma.
8. Defendants issued a Commercial Lines Policy of insurance on the property at 701 South McLean Road, Durant, Oklahoma, on June 29, 2011.
9. The Plaintiff and Defendants dealt with a soliciting insurance agent who represented to be an authorized agent of the Defendants during the acquisition of coverage. This agent reviewed the proposed Commercial Lines Policy and made representations to the agents of the Plaintiff, knowing, or should have known, the Plaintiff and its agents would rely upon these representations.
10. On September 7, 2011, Plaintiff suffered a fire loss under the policy and made claim thereunder for benefits. Plaintiff was entitled to benefits from the Defendant insurance companies.

11. Defendant insurance companies have failed, refused and neglected to pay all of its obligations under the policy to the detriment of the Plaintiff.
12. The Defendants have failed to comply with its obligations and has breached their contract of insurance with the Plaintiff in willful, wanton and gross violation of its duties to the insured and to all policyholders.
13. The Defendants have also acted in bad faith in its dealings with the insured Plaintiff and breached its obligation and covenant to deal fairly and in good faith with its insured.
14. Plaintiff, Durant Metal Shredding LLC, has incurred and continues to incur damages as the result of the bad faith denial of its fire loss claim in excess of \$75,000.00.
15. Plaintiff should be granted by an award of punitive damages sufficient to deter these Defendants and other insurance companies from acting in a similar manner, pursuant to Title 23 OSA § 9.1.

WHEREFORE, premises considered, Plaintiff prays for judgment against the Defendants in actual damages in a sum in excess of \$75,000.00, punitive damages in a sum in excess of \$75,000.00, together with interest, and its cost, reasonable attorneys' fees, and other such relief as allowed by law.

Respectfully submitted,


/s/ Weldon Stout

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Attorneys for Plaintiff

JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIMED